



## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 15, 25, 27 and 101

[WT Docket No. 20-443, GN Docket No. 17-183; DA 21-649; FR ID 32905]

#### Expanding Flexible Use of the 12.2-12.7 GHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule, extension of reply comment period.

**SUMMARY:** In this document, the Commission grants the request by SpaceX Holdings, LLC, WorldVu Satellites Limited, Kepler Communications, Intelsat License LLC, and SES S.A., for an extension of the reply comment deadline for the proposed rule published in the **Federal Register**.

**DATES:** The reply comment period for the proposed rule published April 16, 2021, at 86 FR 20111, is extended. Reply comments should be received either on or before July 7, 2021.

**ADDRESSES:** You may submit comments, identified by WT Docket No. 20-443 and GN Docket No. 17-183, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

**FOR FURTHER INFORMATION CONTACT:** Madelaine Maior of the Wireless

Telecommunications Bureau, Broadband Division, at 202-418-1466 or

[Madelaine.Maior@fcc.gov](mailto:Madelaine.Maior@fcc.gov); or Simon Banyai of the Wireless Telecommunications Bureau, Broadband Division, at 202-418-1443 or [Simon.Banyai@fcc.gov](mailto:Simon.Banyai@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order* in WT Docket No. 20-443; DA 21-649, adopted and released on June 3, 2021. The full text of this document visit FCC's website at <https://docs.fcc.gov/public/attachments/DA-21-649A1.pdf> or via the FCC's Electronic Comment Filing System (ECFS) website at <http://www.fcc.gov/ecfs>.

(Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.)

Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

## I. BACKGROUND

1. On January 15, 2021, the Commission released a *Notice of Proposed Rulemaking* (*NPRM*) seeking input on the feasibility of allowing flexible-use services in the 12.2-12.7 GHz band (12 GHz band) while protecting incumbents from harmful interference.<sup>1</sup> In response to a motion filed by CCIA, et al. for an extension of time to file comments and replies to the *NPRM*,<sup>2</sup> the Bureau released an Order on March 29, 2021, allowing an additional 30 days to file comments and replies (*Extension Order*).<sup>3</sup> The Bureau agreed with the parties that a 30-day extension was “warranted to provide commenters with additional time to prepare comments and reply comments that fully respond to the complex economic, engineering, and policy issues raised in the *NPRM*.”<sup>4</sup> The Bureau, however, declined two requests by SpaceX Holdings, LLC (“SpaceX”), WorldVu Satellites Limited (“OneWeb”), Kepler Communications, Intelsat License LLC, and SES S.A. (the “12 GHz Alliance”) to indefinitely suspend the initial comment deadline until RS Access, LLC (RS Access) provided certain technical analyses.<sup>5</sup>

2. On May 24, 2021, the 12 GHz Alliance filed the instant request for a 30-day extension of the Reply Comment deadline of June 7, 2021.<sup>6</sup> The 12 GHz Alliance seeks additional time to adequately review and respond to “voluminous—nearly 300 pages in

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<sup>1</sup> See *Expanding Flexible Use of the 12.2-12.7 GHz Band, et al.*, WT Docket No. 20-443, Notice of Proposed Rulemaking, 36 FCC Rcd 606 (2021) (*NPRM*). The comment and reply comment deadlines were set at 30 and 60 days after publication in the Federal Register. Publication occurred on March 8, 2021, which made the original deadlines April 7, 2021, and May 7, 2021, respectively. See Federal Communications Commission, *Expanding Flexible Use of the 12.2-12.7 GHz Band*, 86 Fed. Reg. 13266 (Mar. 8, 2021).

<sup>2</sup> See Motion of Computer & Communications Industry Association (CCIA), INCOMPAS, Open Technology Institute at New America, and Public Knowledge for Extension of Time, WT Docket No. 20-443, et al. (filed Mar. 19, 2021).

<sup>3</sup> See *Expanding Flexible Use of the 12.2-12.7 GHz Band, et al.*, WT Docket No. 20-443, et al., Order, DA 21-370 (WTB Mar. 29, 2021) (*Extension Order*) (extending deadlines for comments and reply comments to May 7, 2021, and June 7, 2021, respectively).

<sup>4</sup> *Extension Order* at para. 3.

<sup>5</sup> See *Extension Order* at n.6 (citing Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, et al. to Marlene H. Dortch, Secretary, FCC, at 1 (Mar. 23, 2021)); *Expanding Flexible Use of the 12.2-12.7 GHz Band, et al.*, WT Docket No. 20-443, et al., Order, DA 21-519 (WTB May. 4, 2021) (*Further Extension Denial Order*) (denying further extension requested by 12 GHz Alliance in Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, et al. to Marlene H. Dortch, Secretary, FCC (Apr. 26, 2021)).

<sup>6</sup> Motion of Space Exploration Holdings, LLC, WorldVu Satellites Limited, Kepler Communications, Intelsat License LLC, and SES S.A. (12 GHz Alliance) for Extension of Time, WT Docket No. 20-443, et al., (filed May 24, 2021) (Reply Extension Request).

comments and exhibits between just [RS Access, LLC and DISH Network Corporation].”<sup>7</sup> In response, the 5Gfor12GHz Coalition opposes the instant Reply Extension Request on various grounds.<sup>8</sup> The 5Gfor12GHz Coalition argues that the complex and voluminous nature of the comments do not form the basis for an extension beyond the normal comment and reply schedule expected of routine technical proceedings that involve complex filings.<sup>9</sup> Furthermore, the 5Gfor12GHz Coalition assert that the previously granted extension of the comment deadline by the Commission in this proceeding provided ample additional time for stakeholders to prepare and submit the necessary technical and economic analyses, and that any further delay will hamper 5G deployment in this band to US consumers.<sup>10</sup>

3. The Commission grants the Reply Extension Request filed by the 12 GHz Alliance. As set forth in Section 1.46 of the Commission’s rules,<sup>11</sup> the Commission does not routinely grant extensions of time for filing comments in rulemaking proceedings. Nevertheless, the Commission previously found good cause for granting a 30-day extension of the original comment period to provide commenters with additional time to prepare initial comments addressing the complex economic, engineering, and policy issues raised in the *NPRM*. The Commission now finds that a 30-day extension of the reply comment period—until July 7, 2021—is justified for the same reasons, in order to give parties ample time to respond to the

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<sup>7</sup> Reply Extension Request at 3.

<sup>8</sup> See Opposition of 5Gfor12GHz Coalition to Motion for Extension of Time to File Reply Comments, WT Docket No. 20-443, et al., (filed May 27, 2021) (5Gfor12GHz Coalition Opposition). The 5Gfor12GHz Coalition’s members include INCOMPAS, Public Knowledge, DISH Network, Computer & Communications Industry Association (CCIA), RS Access, Open Technology Institute at New America, Federated Wireless, AtLink, Cambridge Broadband Networks Group Ltd. (CBNG), Center for Education Innovations (CEI), Center for Rural Strategies, Etheric Networks, GeoLinks, Go Long Wireless, Granite Telecommunications, mmWave Tech, MVD Number 53 Partners, Resound Networks, Rise Broadband, Rural Wireless Association (RWA), Tel Net Worldwide, Tilson, VMware, WeLink, White Cloud Technologies, Xiber and X-Lab. 5Gfor12GHz Coalition Opposition at 1, n.1. Public Knowledge, Federated Wireless, MVD Number 53 Partners, and Center for Rural Strategies abstained from this opposition. *Id.*

<sup>9</sup> See 5Gfor12GHz Coalition Opposition at 2 (citing Amendment of Rules Governing Ultra-Wideband Devices and Systems, Order Denying Extension of Time to File Comments and Reply Comment, 34 FCC Rcd. 7176, 7177 ¶ 3 (2019) (denying request to extend comment and reply deadlines in response to a petition for rulemaking) (*Ultra-Wideband Extension Denial*)).

<sup>10</sup> See 5Gfor12GHz Coalition Opposition at 4.

<sup>11</sup> 47 CFR 1.46.

complex economic, engineering, and policy issues raised in the initial comments to the NPRM.<sup>12</sup>

The Commission notes that the precedent for denying the Reply Extension Request cited by the 5Gfor12GHz Coalition is unpersuasive in this case.<sup>13</sup>

## II. ORDERING CLAUSE

4. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and §§ 0.131, 0.331, and 1.46 of the Commission's rules, 47 CFR 0.131, 0.331, and 1.46, the Reply Extension Request filed by SpaceX Holdings, LLC, WorldVu Satellites Limited, Kepler Communications, Intelsat License LLC, and SES S.A., on May 24, 2021 **IS GRANTED**.

5. **IT IS FURTHER ORDERED** that the deadline to file reply comments in this proceeding **IS EXTENDED** to July 7, 2021.

Federal Communications Commission.

**Amy Brett,**

*Acting Chief of Staff,*

*Wireless Telecommunications Bureau.*

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<sup>12</sup> In making this finding, the Commission gives no credit to the 12 GHz Alliance's suggestion that the studies that RS Access and DISH submitted with their timely-filed comments were somehow "belated submissions . . . to limit other interested parties' ability to review and [reply]." Reply Extension Request at 3. *See generally* 5Gfor12GHz Coalition Opposition at 3, Letter from Trey Hanbury, Counsel to RS Access, LLC, to Marlene H. Dortch, Secretary, FCC, at 2 ("The notion that timely receipt of a party's initial comments in a Commission rulemaking proceeding precludes other parties' meaningful participation in that proceeding defies logical explanation.") (Apr. 28, 2021).

<sup>13</sup> The *Ultra-Wideband Extension Denial* cited by the 5Gfor12GHz Coalition, *see supra* note 9, involved a decision declining to extend both the original comment and reply comment deadlines in response to a public notice for a petition for rulemaking—a step preliminary to initiation of a rulemaking proceeding. By comparison, the pleading cycle in the instant proceeding is in response to the NPRM, and the Bureau previously found a 30-day extension of the original comment deadline was justified in this case.